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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x  
4 UNITED STATES OF AMERICA

5 v.

17 CR 339 (AJN)  
Plea

6 THERESA KEEFE

7 Defendant

8 -----x

9 New York, N.Y.  
10 December 20, 2017  
11 2:00 p.m.

12 Before:

13 HON. ALISON J. NATHAN

District Judge

14 APPEARANCES

15 JOON H. KIM

Acting United States Attorney for the  
Southern District of New York

16 ROBERT SOBELMAN

Assistant United States Attorney

17 ZACHARY MARGULIS-OHNUMA LAW OFFICE

Attorneys for Defendant

18 ZACHARY MARGULIS-OHNUMA

ADAM ELEWA

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(In open court; case called)

THE COURT: I will take appearances of counsel starting with the government.

MR. SOBELMAN: Robert Sobelman for the United States.

Good afternoon, your Honor.

THE COURT: Good afternoon.

MR. MARGULIS-OHNUMA: Zachary Margulis-Ohnuma accompanied by my associate, Adam Elewa. Seated between us is our client, Theresa Keefe.

Good afternoon, your Honor.

THE COURT: Good afternoon, counsel.

Good afternoon, Ms. Keefe.

Mr. Margulis-Ohnuma, I've been informed your client wishes to plead guilty to the lesser included offense of Count One. Is that correct?

MR. MARGULIS-OHNUMA: That is correct, your Honor.

THE COURT: Ms. Keefe, before I accept your guilty plea, I'm going to ask you certain questions so that I can establish to my satisfaction that you are pleading guilty because -- you may be seated. Thank you. I can be satisfied that you're pleading guilty because you wish to plead guilty and because you are guilty, and not for some other reason, and also to establish that you know what you'll be giving up by pleading guilty.

If at any point you don't understand one of my

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1 questions or if you want time to consult with your lawyer at  
2 any time or for any reason, you let me know, and I'll give you  
3 as much time as you need. OK?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Ms. Keefe, because I will ask you  
6 questions today, I'm going to place you under oath, so I will  
7 ask you now to please rise and raise your right hand.

8 (Defendant sworn)

9 THE COURT: Ms. Keefe, you are now under oath, which  
10 means that if you answer any of my questions falsely, you may  
11 be prosecuted for the separate crime of perjury.

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: What is your full name?

15 THE DEFENDANT: Theresa Rose Keefe.

16 THE COURT: Mr. Elewa, can I ask you to move the  
17 microphone in front of Ms. Keefe? Thank you.

18 How old are you, ma'am?

19 THE DEFENDANT: I am 56 years old.

20 THE COURT: How far did you go in school?

21 THE DEFENDANT: Eleventh.

22 THE COURT: Ever been treated for any type of mental  
23 illness?

24 THE DEFENDANT: No.

25 THE COURT: Are you now or have you recently been

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1 under the care of a psychiatrist?

2 THE DEFENDANT: I spoke to one.

3 THE COURT: Was that recently?

4 THE DEFENDANT: Yes.

5 THE COURT: Any medication as a result of that  
6 consultation?

7 THE DEFENDANT: I'm on like an anxiety medication, but  
8 that's more for pain. Non-narcotic medication.

9 THE COURT: Have you taken it recently?

10 THE DEFENDANT: Yes, last night.

11 THE COURT: Does it affect in any way your ability to  
12 understand what's going on around you?

13 THE DEFENDANT: No.

14 THE COURT: Any other medicine, pills, drugs or  
15 alcoholic beverages that you've taken in the past two days?

16 THE DEFENDANT: No.

17 THE COURT: Have you ever been treated for any type of  
18 addiction, including drug or alcohol addiction?

19 THE DEFENDANT: Yes.

20 THE COURT: When was that?

21 THE DEFENDANT: I'm not sure of the year exactly.  
22 Maybe around 2008.

23 THE COURT: For what kind of addiction?

24 THE DEFENDANT: Cocaine.

25 THE COURT: Just to confirm again, other than the

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1 antianxiety medication you've taken, have you taken any drugs,  
2 medicine, pills or alcoholic beverages in the past two days?

3 THE DEFENDANT: No.

4 THE COURT: Your mind is clear today?

5 THE DEFENDANT: Yes.

6 THE COURT: You understand what's happening here  
7 today?

8 THE DEFENDANT: Yes.

9 THE COURT: Does either counsel have any doubt as to  
10 Ms. Keefe's competence to plead at this time?

11 MR. SOBELMAN: No, your Honor.

12 MR. MARGULIS-OHNUMA: No, your Honor.

13 THE COURT: On the basis of Ms. Keefe's responses to  
14 my questions, my observations of her demeanor here in court and  
15 the representations of counsel, I do find that she is fully  
16 competent to enter an informed plea of guilty at this time.

17 Ms. Keefe, I want to confirm again that you received a  
18 copy of the indictment in this case. That's the document that  
19 contains the charges against you, and it was labeled at the top  
20 17 CR 339. Did you receive that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: And you had an opportunity to read it?

23 THE DEFENDANT: Yes.

24 THE COURT: Have you had enough of a chance to discuss  
25 with your lawyer the charge to which you intend to plead guilty

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1 and any possible defenses to that charge?

2 THE DEFENDANT: Yes.

3 THE COURT: Has your lawyer explained to you the  
4 consequences of entering a plea of guilty?

5 THE DEFENDANT: Yes.

6 THE COURT: Are you satisfied with your lawyer's  
7 representation of you?

8 THE DEFENDANT: Yes.

9 THE COURT: I'm now going to explain certain  
10 constitutional rights that you have. These are rights that you  
11 will be giving up if you enter a guilty plea. Please listen  
12 carefully to what I'm about to say. And, again, if there is  
13 anything you don't understand, let me know, and either I or  
14 your lawyer will explain the matter more fully.

15 Under the Constitution and laws of the United States,  
16 you have the right to plead not guilty to the charges in the  
17 indictment.

18 Do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: If you did plead not guilty, you'd be  
21 entitled to a speedy and public trial by a jury on the charges  
22 contained in this indictment.

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: At a trial, you would be presumed to be

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1 innocent, and the government would be required to prove you  
2 guilty by competent evidence beyond a reasonable doubt before  
3 you could be found guilty.

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: A jury of 12 people would have to agree  
7 unanimously that you were guilty, and you would not have to  
8 prove that you were innocent if you were to go to trial.

9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: At that trial and at every stage of your  
12 case, you'd be entitled to be represented by a lawyer. If you  
13 couldn't afford a lawyer, one would be appointed at public  
14 expense; that is, free of cost to you to represent you.

15 Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: During a trial, the witnesses for the  
18 government would have to come to court and testify in your  
19 presence, and your lawyer could cross-examine the witnesses for  
20 the government, object to evidence offered by the government,  
21 and offer evidence on your own behalf if you so desired. You  
22 would have the right to have subpoenas issued or other process  
23 used to compel witnesses to testify in your defense.

24 Do you understand that?

25 THE DEFENDANT: Yes.

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1 THE COURT: At a trial although you would have the  
2 right to testify if you chose to do so, you would also have the  
3 right not to testify. If you decided not to testify, no one,  
4 including the jury, could draw any inference or suggestion of  
5 guilt from the fact that you did not testify.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that by pleading guilty,  
9 you're giving up your right to seek suppression of any evidence  
10 that the government has against you?

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: If you were convicted at a trial, you  
14 would have the right to appeal that verdict.

15 Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: So even now as you're here entering this  
18 plea, you do have the right to change your mind, plead not  
19 guilty and go to trial on the charges contained in this  
20 indictment.

21 Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: If you plead guilty and if I accept your  
24 plea, you will give up your right to a trial and the other  
25 rights I've just discussed other than the right to a lawyer



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1 which you have regardless of whether or not you plead guilty.  
2 But if you plead guilty, there will be no trial, and I will  
3 enter a judgment of guilty, and then at a later date I will  
4 sentence you on the basis of your plea after I've considered a  
5 presentence report that I will get from the probation  
6 department and then whatever submissions I get from your lawyer  
7 and from the government.

8 Do you understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: If you plead guilty, there will be no  
11 trial and no appeal with respect to whether you did or did not  
12 commit this crime.

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: If you do plead guilty, you'll also have  
16 to give up your right not to incriminate yourself because I'll  
17 ask you questions today about what you did in order to satisfy  
18 myself that you are guilty as charged, and you'll have to admit  
19 and acknowledge your guilt.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: Ms. Keefe, are you willing to give up your  
23 right to a trial and the other rights I've just discussed with  
24 you?

25 THE DEFENDANT: Yes.

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1 THE COURT: Turning to the charge against you.

2 Mr. Sobelman, am I correct that the government has  
3 agreed to accept a plea to a lesser included offense of Count  
4 One; specifically, the lesser included offense of participating  
5 in a conspiracy to distribute or possess with intent to  
6 distribute mixtures or substances containing a detectable  
7 amount of heroin in violation of 21 U.S.C., Section 846 and  
8 Section 841(b)(1)(C).

9 MR. SOBELMAN: Yes, that's correct, your Honor.

10 THE COURT: Thank you.

11 Ms. Keefe, I've just stated the lesser included  
12 offense. Did you hear that?

13 THE DEFENDANT: Yes, I did.

14 THE COURT: And you understand -- well, now what I'm  
15 going to do is I am going to ask the attorney for the  
16 government to state the elements of the offense in question,  
17 and when he's done, I will just ask if you heard him, and that  
18 you understand if you were to go to trial that those are the  
19 elements that the government would have to prove beyond a  
20 reasonable doubt.

21 Go ahead, Mr. Sobelman.

22 MR. SOBELMAN: There are two elements -- I'm sorry,  
23 there's one element.

24 THE COURT: This is to the lesser included offense,  
25 correct?

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1 MR. SOBELMAN: Yes, your Honor.

2 In order to prove the defendant guilty of the lesser  
3 included offense of Count One of the indictment, which is a  
4 violation of Title 21, United States Code, Sections  
5 841(b)(1)(C) and 846, the government would have to prove the  
6 following beyond a reasonable doubt:

7 First, that two or more persons agreed to violate the  
8 federal narcotics laws; in this case, by agreeing to distribute  
9 and possess with intent to distribute mixtures and substances  
10 containing a detectable amount of heroin;

11 And, second, that the defendant knowingly and  
12 willfully became a member of the conspiracy.

13 In addition, the government would have to show by a  
14 preponderance of the evidence that venue is proper in the  
15 Southern District of New York.

16 THE COURT: Ms. Keefe, did you hear the attorney for  
17 the government state the elements of the offense?

18 THE DEFENDANT: Yes, I did, your Honor.

19 THE COURT: And you do understand if you were to go to  
20 trial, those are the elements the government would have to  
21 prove beyond a reasonable doubt.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. Now I'm going to talk to you  
25 about the maximum possible penalties you face for this crime.

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1 The maximum means the most that could possibly be imposed. It  
2 doesn't mean that is what you will necessarily receive, but you  
3 do have to understand that by pleading guilty, you are exposing  
4 yourself to the possibility of receiving any combination of  
5 punishments up to the maximum that I'm about to describe.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: So first I'm going to talk to you about  
9 the maximum possible restrictions on your liberty. Here, the  
10 maximum term of imprisonment for the lesser included offense is  
11 20 years. Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And any term of imprisonment for the  
14 offense could be followed by a period of supervised release,  
15 and here that could be up to a lifetime of supervised release.

16 Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Just to pause for a moment on that term  
19 supervised release. That means upon release from prison, you'd  
20 be subject to supervision by the probation department, and  
21 there would be rules of supervised release that you'd have to  
22 follow. If you were to violate those rules, you can be  
23 returned to prison without a jury trial to serve additional  
24 time with no credit for time you served in prison as a result  
25 of your sentence and no credit for any time spent on post

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1 release supervision.

2 Do you understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Here, there is actually a mandatory  
5 minimum term of three years of supervised release.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: All right. I want to make sure you  
9 understand there is no parole in the federal system, and if  
10 you're sentenced to prison, you will not be released early on  
11 parole.

12 Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: In addition to these restrictions on your  
15 liberty, the maximum possible punishment also includes certain  
16 financial penalties. Here, the maximum allowable fine is  
17 \$10 million or twice the gross gain derived from the offense or  
18 twice the gross loss to persons other than yourself, whichever  
19 is greater.

20 In addition, I can order restitution to any person or  
21 entity injured as a result of your criminal conduct. I can  
22 also order you to forfeit all property derived from the offense  
23 or used to facilitate the offense.

24 Finally, I must order a mandatory special assessment  
25 of \$100.

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1 Do you understand that what I've just described are  
2 the maximum possible financial penalties you face for this  
3 crime?

4 THE DEFENDANT: Yes.

5 THE COURT: Ms. Keefe, are you a United States  
6 citizen?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that as a result of your  
9 guilty plea, you may lose certain valuable civil rights to the  
10 extent that you have them now or could otherwise obtain them  
11 now, such as the right to vote, the right to hold public  
12 office, the right to serve on a jury, and the right to possess  
13 any kind of firearm. Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Are you serving any other sentence, either  
16 state or federal, or being prosecuted in state court for any  
17 crime?

18 THE DEFENDANT: No.

19 THE COURT: No? I do want to correct myself on one  
20 thing. I think I said the maximum allowable fine for Count  
21 One, not the lesser included offense. I had said \$10 million.  
22 In fact, for the lesser included offense, the maximum allowable  
23 fine is \$1 million. Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: I do want to make sure you understand,

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1 Ms. Keefe, that if your lawyer or anyone else has attempted to  
2 predict what your sentence will be, that prediction could be  
3 wrong. No one -- not your lawyer, not the government's lawyer,  
4 no one -- can give you any assurance of what your sentence will  
5 be since I'm going to decide your sentence, and I'm not going  
6 do that now. I'm going to wait until I receive the presentence  
7 report that will be prepared by the probation department.

8 I will do my own independent calculation of the  
9 sentencing guideline range. I'll consider it and any possible  
10 departures from it and determine what a reasonable sentence is  
11 for you based on the sentencing factors that are contained in a  
12 statute called 18 U.S.C. Section 3553(a).

13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: You've discussed these issues with your  
16 attorney?

17 THE DEFENDANT: Yes.

18 THE COURT: Even if your sentence is different from  
19 what your lawyer or anyone else has told you it might be, even  
20 if it's different from what you expect or that you've entered  
21 into with the government in the written plea agreement, you  
22 will still be bound by your guilty plea and will not be allowed  
23 to withdraw your plea of guilty. Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: I understand there is a written plea

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1 agreement entered into between you, your lawyer and the lawyer  
2 for the government. Is that correct?

3 THE DEFENDANT: Yes.

4 THE COURT: I have the original plea agreement in  
5 front of me at the moment and it's dated December 6, 2017.  
6 I'll ask my deputy to mark the original as Court Exhibit 1 and  
7 place it in front of Ms. Keefe.

8 Mr. Sobelman, I will ask when we are done discussing  
9 it that the government maintain the original in its records,  
10 please.

11 MR. SOBELMAN: We will, your Honor.

12 THE COURT: Do you have the original in front of you?

13 THE DEFENDANT: Yes.

14 THE COURT: On the first page, is it dated November 6,  
15 2017?

16 THE DEFENDANT: Yes.

17 THE COURT: And is it seven pages long?

18 THE DEFENDANT: Yes.

19 THE COURT: On the last page, the seventh page, is  
20 that your signature?

21 THE DEFENDANT: Yes, it is, your Honor.

22 THE COURT: Did you sign that today?

23 THE DEFENDANT: Yes.

24 THE COURT: Did you sign it in the presence of your  
25 lawyer?



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1 THE DEFENDANT: Yes.

2 THE COURT: At some point before you signed the  
3 document, did you read it?

4 THE DEFENDANT: Yes.

5 THE COURT: Did you discuss it with your lawyer before  
6 you signed it?

7 THE DEFENDANT: Yes.

8 THE COURT: And you believe you fully understood it  
9 before you signed it?

10 THE DEFENDANT: Yes.

11 THE COURT: One of the features of your agreement with  
12 the government is that you've agreed on the guideline range  
13 that applies in this case, that's something called the  
14 stipulated guideline range. Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: In your agreement with the government, the  
17 stipulated guideline range is 46 to 57 months imprisonment. Do  
18 you see that?

19 THE DEFENDANT: Yes.

20 THE COURT: It's important to understand that  
21 agreement as to what the calculation is is binding on you and  
22 it's binding on the government. It's not binding on me. As I  
23 said a moment ago, I do have my own obligation to determine the  
24 correct guideline range and what the appropriate sentence is in  
25 your case. I'm not saying I'll come up with a range different

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1 from the one that you agreed to with the government, but if I  
2 do, I will not let you withdraw your plea even if the range I  
3 determine is higher than the one that you've agreed to with the  
4 government. Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: In your plea agreement, you've waived your  
7 right to appeal or otherwise challenge any sentence that is 57  
8 months or below. In other words, if I were to sentence you to  
9 57 months or anything less than 57 months, you would have no  
10 right to appeal or otherwise try to challenge that sentence.  
11 Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Counsel, are there any other aspects of  
14 the plea agreement that you would like highlighted at this  
15 time?

16 MR. MARGULIS-OHNUMA: No, your Honor. But just to be  
17 clear, the stipulation is as to the offense conduct and not as  
18 to the criminal history category, so that is subject to change  
19 and could conceivably change the stipulated guidelines range,  
20 which is typical in plea agreements in Southern District.

21 THE COURT: You don't have an -- well, you do have an  
22 agreement as to the criminal history category.

23 MR. MARGULIS-OHNUMA: I don't think so. It's based on  
24 the information now available.

25 THE COURT: Well, sure, but based on the -- based on

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1 the information now available, you agree -- this agreement on  
2 page 3 indicates that the Criminal History Category is III, and  
3 therefore you've stipulated to a guideline range which takes  
4 that category into account of 46 to 57 months imprisonment.

5 MR. MARGULIS-OHNUMA: It's always been my  
6 understanding with the agreements that the stipulation --  
7 unless I'm missing some language, that the stipulation goes to  
8 Subsection (a) regarding the offense level.

9 THE COURT: That's a new one to me.

10 MR. SOBELMAN: Your Honor, I think the -- I agree with  
11 the Court's description, and on page 4 in the first paragraph I  
12 think makes quite clear that either party may still seek a  
13 sentence outside those guidelines, but on the prior page is  
14 bound by the calculation.

15 THE COURT: Yes, of course, you can certainly, you  
16 agree -- the agreement allows anyone to seek a variance.

17 MR. SOBELMAN: In addition, in the second paragraph on  
18 page 4, there are, I'm not sure if I'll call them exceptions,  
19 but provisions that permit the parties, including the  
20 defendant, to present the probation office and the Court with  
21 any relevant facts, to make arguments where within the  
22 guidelines sentence should be imposed, and to seek an  
23 appropriately adjusted guidelines range if it is determined  
24 based upon new information that the defendant's criminal  
25 history category is different than that set forth above. And

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1 that is in romanette (iii).

2 THE COURT: Yes, standard language.

3 MR. MARGULIS-OHNUMA: May I have one moment? Sorry,  
4 the (iii) you just pointed to is on?

5 MR. SOBELMAN: On page 4 of the agreement.

6 MR. MARGULIS-OHNUMA: On the first long paragraph?

7 MR. SOBELMAN: Yes, the second full paragraph on the  
8 page.

9 MR. MARGULIS-OHNUMA: I'm trying to recall, but I  
10 think that there was -- that this is not academic with respect  
11 to one of the convictions. I haven't seen any paperwork  
12 relating to these convictions or confirmed them in any way.  
13 I'm not sure my client remembers each and every one in  
14 sufficient detail to trigger these criminal history points. My  
15 understanding of these agreements has always been that, you  
16 know, if the probation report came back with different criminal  
17 history calculations, we were entitled to challenge that. So  
18 let me just -- and I think here she is right on the cusp  
19 between Criminal History Category II and III.

20 So if I could take a moment and try to recall which  
21 was the one that could be an issue (Probation report.

22 THE COURT: Certainly, you should do that, and I think  
23 caution is appropriate here because if you have a contention  
24 now that she would be in Criminal History Category II based on  
25 the information you have rather than III, then I don't think we

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1 should go forward with the plea, unless it's what she wants to  
2 do with a full knowing and voluntary agreement, but I think you  
3 will be bound to the agreement based on all information as it's  
4 currently known.

5 MR. MARGULIS-OHNUMA: Let me just take a minute to  
6 assess that. I apologize.

7 (Counsel confers with defendant)

8 MR. MARGULIS-OHNUMA: Your Honor, forgive me for the  
9 delay. Based on (iii) in the second paragraph of page 4, I  
10 think that's what I was referring to in terms of the ability to  
11 challenge this later if there is new information that the  
12 criminal history category is different than what is above. I  
13 think based on that, we're prepared to go forward. If I find  
14 paperwork to determine that one of these was not her, I think  
15 the government would be open to -- I don't think it would be --  
16 it would be something that I would be entitled to raise  
17 notwithstanding the stipulation in the prior paragraph. Just  
18 based on that, we are prepared to go forward.

19 THE COURT: Let's make sure we have a meeting of the  
20 minds. It refers to new information. So if new information is  
21 learned that would impact the accurate calculation of the  
22 criminal history, then bringing that information to the  
23 attention of probation and the Court I would not think is a  
24 breach of the plea agreement.

25 Mr. Sobelman?

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1 MR. SOBELMAN: I agree.

2 THE COURT: Likewise, if there is an additional prior  
3 criminal conviction that counts for points and increases the  
4 criminal history category that's not known about at this  
5 time -- I mean, frankly, in my experience, that's what normally  
6 happens and usually the government says we continue to  
7 encourage a sentence within the stipulated guideline range,  
8 even though I think technically under this provision that I  
9 don't think we have to, but just to be clear, new information  
10 allows either side to take a different position as to what the  
11 criminal history category is.

12 Is that your understanding, each of you?

13 MR. MARGULIS-OHNUMA: Yes.

14 MR. SOBELMAN: Yes, I think it means exactly what it  
15 says.

16 THE COURT: All right. Ms. Keefe, this issue that we  
17 have been discussing, the understanding that I just indicated,  
18 is that your understanding as well?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Have you had enough time to discuss this  
21 question and issue with your lawyer?

22 THE DEFENDANT: Yes.

23 THE COURT: And you're prepared to continue?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. Thank you.

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1 MR. SOBELMAN: Your Honor, you had asked were there  
2 any other issues.

3 THE COURT: Yes, anything else you want highlighted?

4 MR. SOBELMAN: Just one minor point, which is that the  
5 government may seek restitution, and I think that hasn't been  
6 mentioned.

7 THE COURT: I did say that -- in listing the potential  
8 maximum -- in listing the maximum financial penalties that I  
9 could order restitution.

10 MR. SOBELMAN: Apologies if I missed it.

11 THE COURT: There is sometimes a specific amount  
12 indicated, but you don't have that here.

13 MR. SOBELMAN: No, your Honor.

14 THE COURT: Thank you.

15 Anything else you want me to highlight,  
16 Mr. Margulis-Ohnuma?

17 MR. MARGULIS-OHNUMA: No. Thank you, your Honor.

18 THE COURT: Ms. Keefe, I want to make sure that this  
19 written plea agreement that we've been discussing just now,  
20 does that constitute your complete and total understanding of  
21 the entire agreement between you and the government?

22 THE DEFENDANT: Yes, it does, your Honor.

23 THE COURT: Other than what's written in this  
24 agreement, has anyone made any promise to you or offered you  
25 any inducement to plead guilty or to sign the agreement?

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1 THE DEFENDANT: No.

2 THE COURT: Has anyone threatened you or forced you to  
3 plead guilty or to sign the plea agreement?

4 THE DEFENDANT: No.

5 THE COURT: Has anyone made a promise to you as to  
6 what your sentence will be?

7 THE DEFENDANT: No.

8 THE COURT: Thank you.

9 Mr. Margulis-Ohnuma, if you would hand to Mr. Sobelman  
10 the plea agreement. Thank you.

11 Ms. Keefe, what I'm going to ask you to do now is to  
12 tell me in your own words what you did that makes you believe  
13 that you are guilty of the lesser included offense of Count One  
14 that we've been discussing.

15 THE DEFENDANT: In West Haverstraw, New York, I  
16 conspiracy to distribute heroin. I agreed with others to sell  
17 heroin.

18 THE COURT: Counsel, you'll have to help me, where  
19 West Haverstraw is, what county?

20 THE DEFENDANT: That's in Rockland County.

21 THE COURT: In Rockland. Thank you.

22 Ms. Keefe, you knew at the time what you were doing  
23 was illegal?

24 THE DEFENDANT: Yes.

25 THE COURT: Mr. Sobelman, any questions you'd like me



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1 to ask?

2 MR. SOBELMAN: I had difficulty hearing. Maybe  
3 Ms. Keefe stated a time period, but if not, we like to have one  
4 established.

5 THE COURT: I don't think there was a time period.  
6 What was the time period that you engaged in the  
7 conduct that you described?

8 THE DEFENDANT: 2012 to 2017.

9 THE COURT: Thank you.

10 Anything else, Mr. Sobelman?

11 MR. SOBELMAN: No, your Honor.

12 THE COURT: Ms. Keefe, I note that you were -- in  
13 telling me what you did, I think you were reading from a  
14 prepared statement. I appreciate when individuals work on that  
15 with their lawyer. I do want to make sure that you understood  
16 what you read to me.

17 THE DEFENDANT: Yes, I did.

18 THE COURT: And you accept those words fully as your  
19 own?

20 THE DEFENDANT: Yes.

21 THE COURT: Mr. Margulis-Ohnuma, do you know of any  
22 valid defense that would prevail at trial or any reason why  
23 your client should not be permitted to plead guilty?

24 MR. MARGULIS-OHNUMA: I do not.

25 THE COURT: And you agree there's a sufficient factual

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1 predicate?

2 MR. MARGULIS-OHNUMA: I do, your Honor.

3 THE COURT: Mr. Sobelman, I'll ask the government to  
4 make a proffer to the Court as to what the evidence would  
5 consist of and what it would show with respect to Ms. Keefe if  
6 we were to proceed to trial.

7 MR. SOBELMAN: Your Honor, the evidence would include  
8 Title III wire intercepts of phone recordings, phone records,  
9 witness testimony, as well as physical evidence obtained  
10 through lawful seizures of drugs.

11 The evidence would show that Ms. Keefe agreed with  
12 others during the time period aforementioned to possess with  
13 intent to distribute heroin.

14 THE COURT: In a moment I'm going to ask Ms. Keefe for  
15 her formal entry of plea.

16 Before I do so, counsel, any reason I should not  
17 accept the defendant's plea of guilty?

18 MR. MARGULIS-OHNUMA: No, your Honor.

19 THE COURT: Mr. Sobelman?

20 MR. SOBELMAN: No, your Honor.

21 THE COURT: Ms. Keefe, based on everything that we've  
22 discussed, I'll ask for your formal entry of plea to the lesser  
23 included offense of Count One which is laid out in 17 CR 339.  
24 How do you plead?

25 THE DEFENDANT: Guilty, your Honor.

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1 THE COURT: Ms. Keefe, because you acknowledge that  
2 you are in fact guilty of the lesser included offense, because  
3 I'm satisfied that you know of your rights, including your  
4 right to go to trial, and that you are aware of the  
5 consequences of your plea, including the sentence which may be  
6 imposed, because I find that you are knowingly and voluntarily  
7 pleading guilty, I accept your guilty plea and enter a judgment  
8 of guilty to Count One of the indictment.

9 I order the preparation of a presentence report .

10 Ms. Keefe, the probation department will want to  
11 interview you in connection with that presentence report that I  
12 mentioned earlier.

13 Mr. Margulis-Ohnuma, does defense counsel wish to be  
14 present for any interview?

15 MR. MARGULIS-OHNUMA: Yes, your Honor.

16 THE COURT: I order probation conduct no interview  
17 unless counsel is present.

18 Ms. Keefe, if you do choose to speak to the probation  
19 department, please make sure that anything you say is truthful  
20 and accurate. I'll read the report carefully, and it's  
21 important to me in deciding what sentence to impose.

22 You and your counsel have a right to examine the  
23 report and comment on it at the time of sentencing, so I do  
24 urge you to read it and discuss it with your lawyer before  
25 sentencing.

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1           If there are any mistakes in it, please point them out  
2           to your lawyer so he can bring them to my attention before  
3           sentencing.

4           I propose sentencing to be set for April 2, 2018 at  
5           10:00 a.m.

6           MR. MARGULIS-OHNUMA: One moment, your Honor. Do you  
7           know when Easter is?

8           THE COURT: I don't. My deputy is looking, I think.  
9           Good Friday is the Friday before that Monday. Sunday, the 31st  
10          is Easter. It is during Passover though.

11          MR. MARGULIS-OHNUMA: I wonder if we could do the  
12          following week or the week before. Kids are out of school that  
13          week.

14          THE COURT: Take a look. April 9 at 10:00 a.m.

15          MR. MARGULIS-OHNUMA: Thank you very much, your Honor.

16          THE COURT: Sentencing is set for April 9, 2018 at  
17          10:00 a.m.

18          I direct the government to provide the probation  
19          officer with its factual statement within seven days. Defense  
20          counsel, please arrange for the defendant to be interviewed by  
21          the probation department within the next two weeks.

22          I do refer counsel to my individual rules and  
23          practices for criminal cases available on the court's website  
24          which contains some rules regarding sentencing submissions.

25          In accordance with those rules, the defense submission

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1 is due one week prior to sentencing, and the government  
2 submission is due three days prior to sentencing.

3 Defendant shall remain in custody pending sentencing.

4 Counsel, is there anything else I can address at this  
5 time?

6 MR. SOBELMAN: Nothing from the government.

7 MR. MARGULIS-OHNUMA: Not from the defense.

8 THE COURT: See everyone in April. Happy New Year.  
9 We're adjourned.

10 (Adjourned)